



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2013-0388; FRL- 9935-08-Region 6]

**Approval and Promulgation of Implementation Plans; Texas; Infrastructure and Interstate
Transport State Implementation Plan for the 2010 Sulfur Dioxide National Ambient Air
Quality Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Federal Clean Air Act (CAA) the Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of Texas for the Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS). The submittal addresses how the existing SIP provides for implementation, maintenance, and enforcement of the 2010 SO₂ NAAQS (infrastructure SIP or i-SIP). This i-SIP ensures that the State's SIP is adequate to meet the state's responsibilities under the CAA.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER**

DATE OF PUBLICATION THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R06-OAR-2013-0388, by one of the following methods:

- *www.regulations.gov*. Follow the online instructions.
- E-mail: Nevine Salem at *salem.nevine@epa.gov*.
- Mail or delivery: Guy Donaldson, Chief, Air Planning Section (6PD-L),
Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas
75202-2733. Deliveries are accepted only between the hours of 8 a.m. and 4 p.m.
weekdays, and not on legal holidays. Special arrangements should be made for
deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2013-0338. The EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. The www.regulations.gov website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other

contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional information on submitting comments, please visit

<http://www2.epa.gov/dockets/commenting-epa-dockets>

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Nevine Salem, 214-665-7222, salem.nevine@epa.gov. To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at 214-665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

On June 22, 2010, the EPA revised the primary SO₂ NAAQS (hereafter the 2010 SO₂

NAAQS) to establish a new 1-hour standard, with a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations (75 FR 35520). Each state must submit the i-SIP within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements the i-SIP must meet.

On April 23, 2013, the TCEQ submitted an i-SIP for the 2010 SO₂ NAAQS. On September 13, 2013, the EPA issued guidance addressing the i-SIP elements for all NAAQS¹. This guidance doesn't address CAA section 110(a)(2)(D)(i)(I), which concerns interstate pollution transport affecting attainment and maintenance of the NAAQS.

The EPA is proposing approval of the April 23, 2013 submission for the applicable requirements of the 2010 SO₂ NAAQS. The EPA is not proposing any action at this time regarding the interstate transport provisions portions of section 110(a)(2)(D)(i)(I) pertaining to nonattainment or interference with maintenance of the NAAQS in other States and the portion of 110(a)(2)(D)(i)(II) regarding visibility protection. We intend to take action as to whether the Texas SIP meets the requirements of 110(a)(2)(D)(i)(I) in a later action. In a separate action, we proposed to disapprove the portion of the Texas SO₂ i-SIP for CAA section 110(a)(2)(D)(i)(II) pertaining to the visibility protection (79 FR 74818, December 16, 2014). The EPA will take final action on the portion of CAA section 110(a)(2)(D)(i)(II) pertaining to visibility protection of the Texas SO₂ i-SIP in a future rulemaking. EPA notes that the Agency is not approving any specific rule, but rather proposing that Texas' already approved SIP meets certain CAA requirements.

II. The EPA's Evaluation of Texas' 2010 SO₂ NAAQS i-SIP Submittal

¹ Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.

Below is a summary of the EPA's evaluation of the Texas i-SIP for each applicable element of CAA section 110(a)(2) A-M.² Texas provided a demonstration of how the existing Texas i-SIP met all the requirements of the 2010 SO₂ NAAQS on May 09, 2013. This SIP submission became complete by operation of law on November 09, 2013. *See* CAA section 110(k)(1)(B).

(A) Emission limits and other control measures: The CAA § 110(a)(2)(A) requires SIPs to include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act and other related matters as needed to implement, maintain and enforce each of the NAAQS.³

The Texas Clean Air Act (TCAA) provides the Texas Commission on Environmental Quality (TCEQ), its Chairman, and its Executive Director with broad legal authority. They can adopt emission standards and compliance schedules applicable to regulated entities; emission standards and limitations and any other measures necessary for attainment and maintenance of national standards; and, enforce applicable laws, regulations, standards and compliance schedules, and seek injunctive relief. This authority has been employed in the past to adopt and

² Additional information on: The history of SO₂, its levels, forms and, determination of compliance; the EPA's approach for reviewing i-SIPs; the details of the SIP submittal and the EPA's evaluation; the effect of recent court decisions on i-SIPs; the statute and regulatory citations in the Texas SIP specific to this review; the specific i-SIP applicable CAA and the EPA regulatory citations; Federal Register Notice citations for Texas' SIP approvals; Texas minor New Source Review program and the EPA approval activities; and Texas' Prevention of Significant Deterioration (PSD) program can be found in the Technical Support Document (TSD). The TSD can be accessed through www.regulations.gov (e-docket EPA-R06-2013-0388).

³ The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2010 SO₂ NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, the EPA is not evaluating the existing SIP provisions for this purpose. Instead, the EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

submit multiple revisions to the Texas State Implementation Plan. The approved SIP for Texas that satisfies the infrastructure requirements of CAA section 110(a)(2) for the 2010 SO₂ NAAQS is documented at 40 CFR Part 52.2270, Subpart SS. TCEQ's air quality rules and standards are codified at Title 30, Part 1 of the Texas Administrative Code (TAC). Numerous parts of the regulations codified into 30 TAC necessary for implementing and enforcing the NAAQS have been adopted into the SIP.

(B) Ambient air quality monitoring/data system: The SIP must provide for establishment and implementation of ambient air quality monitors, collection and analysis of monitoring data, and providing such data to the EPA upon request.

The TCAA provides the authority allowing the TCEQ to collect air monitoring data, quality-assure the results, and report the data. TCEQ maintains and operates a monitoring network to measure ambient levels of SO₂ and submits an annual Network Assessment to the EPA with monitoring requirements. TCEQ's 2014 Air Monitoring Network Plan is the most recent EPA-approved plan and was approved by the EPA on January 14, 2015.⁴ All monitoring data is measured using the EPA approved methods and subject to the EPA quality assurance requirements. Federally required monitoring is conducted under an EPA-approved Quality Assurance Project Plan (QAPP). The TCEQ website provides the monitor locations and posts past and current concentrations of criteria pollutants measured in the State's network of monitors.⁵ TCEQ submits all required data to the EPA, following the EPA regulations. Previously the Texas statewide monitoring network was approved into the SIP on March 7, 1978 (43 FR 9275).

⁴ A copy of TCEQ's ambient monitoring network assessment and EPA's approval letter are included in the docket for this proposed rulemaking.

⁵ See http://www.tceq.texas.gov/airquality/monops/sites/mon_sites.html and <http://www17.tceq.texas.gov/tamis/index.cfm?fuseaction=home.welcome>

(C) Program for enforcement: The CAA § 110(a)(2)(C) requires SIPs to include the following three elements: (1) a program providing for enforcement of the measures in paragraph A above; (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (i.e., state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS).⁶

(1) Enforcement of SIP Measures. As noted in (A), the TCAA provides authority for the TCEQ, its Chairman, and its Executive Director to enforce the requirements any regulations, permits or final compliance orders as well as general enforcement powers. Among other things, they can file lawsuits to compel compliance with the statutes and regulations; commence civil actions, issue field citation; conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue compliance orders; pursue criminal prosecutions; investigate, enter into remediation agreements; and issue emergency cease and desist orders. The TCAA also provides additional enforcement authorities and funding mechanisms.

(2) Minor New Source Review (NSR). Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. The Texas minor NSR permitting requirements are approved as part of the SIP.⁷

(3) Prevention of Significant Deterioration (PSD) permit program. Texas's PSD portion

⁶ As discussed in further details in the TSD.

⁷The EPA is not proposing to approve or disapprove the existing Texas minor NSR program to the extent that it may be inconsistent with the EPA's regulations governing this program. The EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for the EPA to approve the infrastructure SIP for element C (e.g., 76 FR 41076-41079). The EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs.

of the SIP covers all NSR regulated pollutants as well as the requirements for the 2010 SO₂ NAAQS and has been approved by the EPA⁸. Texas has a SIP-approved PSD and nonattainment NSR permitting program that contains requirement for sources of air pollutants to obtain an approved permit before beginning construction of a facility and before modifying an existing facility (79 FR 66626, November 10, 2014).

(D) Interstate and international transport: The requirements for the interstate transport of SO₂ emissions are that the SIP contain adequate provisions prohibiting emissions to other states which will (1) contribute significantly to nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with measures required to prevent significant deterioration or (4) interfere with measures to protect visibility (CAA 110(a)(2)(D)(i)). In addition, States must comply with requirements to prevent transport of international air pollution (CAA section 110(a)(2)(D)(ii)).

The Texas i-SIP submittal discussed the requirements of the CAA section 110(a)(D). We plan to evaluate and take action on the portion of the i-SIP pertaining to emissions which will contribute significantly to nonattainment or interfere with maintenance of the NAAQS at a later time. As noted above, we proposed to disapprove the portion of the SIP addressing interstate transport and visibility protection in an earlier action (80 FR 74818, December 16, 2014).

Because Texas has a fully approved Prevention of Significant Deterioration (PSD) SIP addressing all regulated new source review pollutants, we propose to approve the transport portion of the submittal. Revisions to the PSD SIP were approved on November 10, 2014 (79 FR 66626).

CAA section 110(a)(2)(D)(ii) requires that the SIP contain adequate provisions insuring

⁸As discussed further in the TSD

compliance with the applicable requirements of section 126 (relating to interstate pollution abatement) and 115 (relating to international pollution abatement). Texas meets the section 126 requirements as it has a fully approved PSD SIP and no source or sources have been identified by the EPA as having any interstate impacts under section 126 in any pending action related to any air pollutant. Texas meets the section 115 requirements as there are no final findings by the EPA that Texas air emissions affect other countries. Therefore, we propose to approve the portion of the Texas SO₂ i-SIP pertaining to CAA section 110(a)(2)(D)(ii).

(E) Adequate authority, resources, implementation, and oversight: The SIP must provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements relating to state boards; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan.

Both elements (A) and (E) herein address the requirement that there is adequate authority to implement and enforce the SIP and that there are no legal impediments.

This i-SIP submission for the 2010 SO₂ NAAQS describes the SIP regulations governing the various functions of personnel within the TCEQ, including the administrative, technical support, planning, enforcement, and permitting functions of the program.

With respect to funding, TCAA requires TCEQ establish an emissions fee schedule for sources in order to fund the reasonable costs of administering various air pollution control programs and authorizes TCEQ to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications. The EPA conducts periodic program

reviews to ensure that the state has adequate resources and funding to among other things implement and enforce the SIP.

As required by the CAA, the SIP stipulates that any board or body, which approves permits or enforcement orders, must have at least a majority of members who represent the public interest and do not derive any “significant portion” of their income from persons subject to permits and enforcement orders or who appear before the board on issues related to the CAA. The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest.

With respect to assurances that the States has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, the Texas statutes and the SIP designate the TCEQ as the primary air pollution control agency, and the TCEQ maintains authority to ensure implementation of any applicable plan portion.

(F) Stationary source monitoring system: The SIP must provide the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from sources, and require that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

The TCAA authorizes the TCEQ to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions. There also are SIP regulations pertaining to sampling and

testing and requirements for reporting of emissions inventories. In addition, SIP rules establish general requirements for maintaining records and reporting emissions.

The TCEQ uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determine compliance with SIP regulations and additional EPA requirements. The SIP requires this information be made available to the public. Provisions concerning the handling of confidential data and proprietary business information are included in the SIP's regulations. These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources.

(G) Emergency authority: The SIP must provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment and to include contingency plans to implement such authorities as necessary.

The TCAA provides TCEQ with authority to address environmental emergencies, and TCEQ has contingency plans to implement emergency episode provisions. Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, TCAA authorizes TCEQ to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order directing the owner/operator to cease such pollution immediately. The TCEQ may issue emergency orders, or issue or suspend air permits as required by an air pollution emergency.

(H) Future SIP revisions: States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

The TCAA authorizes the TCEQ to revise its SIP, as necessary, to account for revisions of an existing NAAQS, establishment of a new NAAQS, to attain and maintain the NAAQS, to abate air pollution, to adopt more effective methods of attaining the NAAQS, and to respond to the EPA SIP calls concerning NAAQS adoption or implementation. TCEQ regularly revises the Texas SIP in response to revisions of the NAAQS and the EPA rules.

(I) Nonattainment areas: The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of Part D of the CAA, relating to SIP requirements for designated nonattainment area. SIP revisions that implement the control strategies necessary to bring a nonattainment area into attainment of the NAAQSs are not required by CAA to be submitted within three years of the promulgation of a new or revised NAAQS. Therefore, §110(a)(1) does not require this element to be demonstrated as part of an infrastructure SIP submittal (73 FR 16025, at 16206).

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet applicable requirements of section 121: (1) relating to interagency consultation regarding certain CAA requirements; section 127 (2) relating to public notification of NAAQS exceedances and related issues; and, part C relating to (3) prevention of significant deterioration of air quality and visibility protection.

(1) Interagency consultation: As required by the TCAA, there must be a public hearing before the adoption of any regulations or emission control requirements and all interested persons are given a reasonable opportunity to submit data, view, or arguments orally or in writing and to examine witnesses testifying at the hearing. The TCEQ has established public processes for all SIP revisions and permitting programs. The TCEQ consults with other agencies, local agencies, and governmental organizations, as well as with the environmental agencies of

other states regarding air quality concerns.

(2) *Public Notification:* This i-SIP submission from Texas provides the SIP regulatory citations requiring the TCEQ to regularly notify the public of instances or areas in which any NAAQS are exceeded. Included in the SIP are the rules for TCEQ to advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality. In addition, as discussed for infrastructure element B above, the TCEQ air monitoring website provides quality data for each of the monitoring stations in Texas; this data is provided instantaneously for certain pollutants, such as ozone. The website also provides information on the health effects of lead, ozone, particulate matter, and other criteria pollutants.

(3) *PSD and Visibility Protection:* All major sources in Texas are subject to Texas' SIP-approved PSD program. The PSD requirements here are the same as those addressed under (C). Texas submitted a SIP revision to address Regional Haze, including a long-term strategy to address visibility impairment for each Class I area that may be impacted by emission from Texas facilities. Texas SIP requirements relating to visibility and regional haze are not affected when the EPA establishes or revises a NAAQS. Therefore, the EPA believes that there are no new visibility protection requirements due to the revision of the NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element (J) after the promulgation of a new or revised NAAQS.

(K) *Air quality and modeling/data:* The SIP must provide for performing air quality modeling, as prescribed by the EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to the EPA upon request.

The TCEQ has the power and duty, under the TCAA to investigate and develop facts providing for the functions of environmental air quality assessments. Air quality modeling is conducted during development of revisions to the Texas SIP, as appropriate for the State to demonstrate attainment with required NAAQS. Modeling is also a part of the NSR permitting program. Texas has the ability to perform modeling for the primary and secondary SO₂ standards and other NAAQS criteria pollutant on a case-by-case permit basis consistent with their SIP-approved PSD rules and with the EPA guidance. Upon request, Texas will submit current and future air quality modeling data to the EPA.

(L) Permitting Fees: The SIP must require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by the EPA.

The TCEQ assesses fees for reviewing permit applications and for enforcing the terms and conditions of permits. See element (E) above for the description of the mandatory collection of permitting fees outlined in the SIP.

(M) Consultation/participation by affected local entities: The SIP must provide for consultation and participation by local political subdivisions affected by the SIP.

The TCEQ has several cooperative agreements and Memoranda of Understanding with various other state and local agencies and organizations. Consultation with a variety of different organizations is a regular part of the TCEQ process for developing a SIP. See element J herein for a discussion of the SIP's public participation process, the authority to advise and consult, and

the PSD SIP's public participation requirements. Additionally, the TCAA also requires initiation of cooperative action between local authorities and the TCEQ, between one local authority and another, or among any combination of local authorities and the TCEQ for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions, and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate.

III. Proposed Action

The EPA is proposing to approve the April 23, 2013, infrastructure SIP submission from Texas, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2010 SO₂ NAAQS. Specifically, the EPA is proposing to approve the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II) (PSD portion), D(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The EPA is not proposing action on: the portion pertaining to section 110(a)(2)(D)(i)(I), which concerns interstate pollution transport affecting attainment and maintenance of the NAAQS and the portion pertaining to section 110(a)(2)(D)(i)(II) pertaining to visibility protection.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The EPA is not proposing to approve this infrastructure SIP certification to apply on any

Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this proposed approval of an infrastructure SIP certification does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, sulfur dioxide reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 22, 2015.

Ron Curry,

Regional Administrator, Region 6.

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